almost without exception that these do not abrogate the common-law rule of the husband's liability for the torts of the wife. *Fitzgerald v. Quaun* 33 Hun 652, *McElfresh v. Kirkendall* 36 Iowa 562.

INHERITANCE TAX—EXEMPTIONS—CONSTITUTIONAL LAW.—STATE EX REL. TAYLOR V. GILBERT, 71 N. E. 636 (Ohio). *Held*, that a tax on the right of inheritance is an excise and not a property tax and is therefore not in violation of a constitutional provision which requires uniformity and equality in the imposition of burdens of taxation and which limits the amount of exemption to less than that exempted by the tax in question. Price and Davis, JJ., *dissenting*.

The right of receiving property is a bonus from the hands of the State and is not property. *Scholey v. Rew*, 23 Wall. 331; *Magoun v. Bank*, 170 U. S. 283: *contra, Com. v. Coleman*, 52 Pa. 486; *Curry v. Spencer*, 61 N. H. 624. The constitutional provision *supra*, applies only to taxes on property. *Baker v. Cincinnati*, 11 O. St. 540. In most states the subject of taxation apportionment in subjects other than persons and property is legislative rather than judicial. *Bell Gap R. R. v. Penn.*, 134 U. S. 237; so that the remedy for discriminating taxation in such cases lies with the legislature only, *Kirby v. Shaw*, 19 Pa. 261; *Youngblood v. Sexton*, 32 Mich. 414; the constitutional limitation on exemptions therefor, not applying. The dissenting opinion in the principal case grounds its argument on *Ex rel. Ferris*, 53 Ohio St. 1, and upholds the view that the Constitution limits the right of the legislature to tax and that it is over-refinement of reasoning to exclude a right of inheritance from its protection.

LANDLORD AND TENANT—BREACH OF CONTRACT TO REPAIR—INJURY TO TENANT—LIABILITY OF LANDLORD, DAVIS V. SMITH, 58 Atl. 630. (R. I.) *Held*, that the landlord is not liable to tenant for injuries from defective premises which the landlord has covenanted to repair.

If the duty of the landlord had been a positive one he would have been liable for all the consequences. *Schick v. Fleischauer*, 26 N.Y. App. Div. 210. Thus it has been held that where a landlord actually undertakes to repair and does so negligently and injury results he is liable, for there the law imposes a positive duty to repair with due care. *Gill v. Middleton*, 105 Mass. 477; *Hine v. Cushing*, 53 Hun (N. Y.) 519. It was even held in *Flinn v. Trask*, 11 Allen 550, that in a covenant like the present one the landlord is liable for resulting injury. The great weight of authority is, however, to the effect that such a covenant entails simply ordinary contract liability and only damages which are in contemplation at the time of its inception are assessable. *Tuttle v. Gilbert Mfg. Co.*, 145 Mass. 169; *Bowe v. Hun King*, 135 Mass. 180; *Spellman v. Bannigan*, 36 Hun. 174.

LIBEL—CRITICISM MADE IN JEST.—TRIGGS V. SUN PRINTING AND PUBLISHING ASS'N., 71 N. E. 739 (N. Y.). *Held*, that a publication ridiculing an author's private life and representing him as a presumptuous literary freak, cannot be justified on the ground that it was made in jest.

It is not libelous to criticize an author's works in any way, but the private life of an author is protected. *Carr v. Hood*, 1 Camp. 354; *Hamilton v. Eno*, 81 N. Y. 116; *Townshend, Slander and Libel* § 255. The fact that a criticism, tending to bring its object into ridicule, is in jest, is no excuse, *Donoghue v. Hayes*, Irish Exchequer 265, 266; the words being sufficient if they tend to make a person seem contemptible and ridiculous. *Foster v. Scripps*, 39

Mich. 389. The principal case is of peculiar interest in that it shows the limits within which newspaper writers are allowed to exercise their humor—though such limits are elastic in different courts.

LOTTERY—'CHANCE'.—PEOPLE EX REL. ELLISON V. LAVIN, 71 N. E. 753. (N. Y.).—Where a penal code defines a lottery as a scheme for the distribution of property by chance among persons who have paid a valuable consideration therefor, *held*, that an estimate on the amount of taxes to be paid on all cigars in a given month is necessarily so uncertain as to come within the term 'chance'.

In the absence of statutory or code provisions a lottery must contain the element of pure chance. *People v. Elliott*, 41 N. W. 916. But it is generally provided, or at least held that any scheme or game in which judgment, skill, practice or brains may be thwarted by chance, is a lottery. *State v. Nates*, 3 Hill L. 200; *Harris v. White*, 181 N. Y. 532. So that most of the cases go beyond the decision in the principal case, in that, while this decision merely requires that chance be the dominating element, they hold that schemes or games in which the result is determined more by skill than chance are nevertheless lotteries. *State v. Lovell*, 39 N. J. L. 458; *Swigart v. People*, 154 Ill. 284. In some cases stakes at horse-races are held to be lotteries. *Davis v. State*, 13 Lea 228. But the better opinion is to the contrary. *People ex rel. Lawrence v. Fallon*, 152 N. Y. 12. In the principal case, however, chance is easily the dominating element, all opportunity for judgment formed by knowledge or investigation being eliminated by information given in the advertisement.

MASTER AND SERVANT—SAFE MATERIALS—INJURY TO SERVANT—LIABILITY OF MASTER.—TIERNEY V. WUNCK, 88 N. Y. Supp. 612. *Held*, that the fact that a scaffolding had splits in it, and broke when stepped upon was sufficient evidence of the master's neglect to furnish safe materials. Woodward and Jenks, JJ., *dissenting*.

The case comes under a labor law statute but on this point the statute is practically declaratory of the common law. The decision appears to be contrary to the general rule that a master must use ordinary care, only, in furnishing a safe scaffolding. *Austin Mfg. Co. v. Johnson*, 89 Fed. 677; *McLean v. Standard Oil Co.*, 21 N. Y. Supp. 874. Reasonably safe materials are all that are required. There is no need of furnishing the very best. *Rooney v. Sewall, etc., Co.*, 161 Mass. 153; *Bajus v. Syracuse, etc., R. Co.*, 103 N. Y. 312. So, in the present case, as the dissenting opinion says, the plank was, to all appearances, sufficiently strong. And as the injured party himself had put the plank in place he was better able than any one else to know its defects. *Charmon v. Sanford Co.*, 70 Conn. 573. It is, therefore, difficult to see why the master should have been held liable.

NEGLIGENCE—LIABILITY OF OWNER OF PUBLIC RESORT—INDEPENDENT CONTRACTOR.—DEYO V. KINGSTON CONS. R. CO., 88 N. Y. Supp. 487.—While attending an exhibition of fire works at defendant's public amusement resort, to which an admission fee was charged, the plaintiff was injured by a rocket negligently discharged by an independent contractor employed by the defendant to conduct the exhibition. *Held*, that, as the defendant was not guilty of negligence, no liability attached. Houghton, J., *dissenting*.

It has been held that the proprietor of a public amusement resort is liable for any injury resulting from the improper or unsafe construction of a build-